

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 10/652,261

§ Examiner: Salce, Jason P.

Filed: August 29, 2003

§ Group/Art Unit: 2421

Inventor(s):

Frederick B. Harris

§ Atty. Dkt. No: 5266-08801

Title: VIDEO-ON-DEMAND
AND TARGETED
ADVERTISING

****CERTIFICATE OF E-FILING TRANSMISSION****

I hereby certify that this correspondence is being transmitted via electronic filing to the United States Patent and Trademark Office on the date shown below

Rory D. Rankin

Printed Name

/ Rory D. Rankin /

Signature

April 17, 2009

Date

REPLY BRIEF TO EXAMINER'S ANSWER

Mail Stop Appeal Brief - Patents

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir/Madam:

This Reply Brief is filed in Response to the Examiner's Answer mailed on February 17, 2009.

STATUS OF CLAIMS

Claims 1-23 are pending and rejected, and are the subject of this appeal.

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

1. Claims 1-3, 8, 10-11, 15-18 and 20-23 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 5,945,987 (hereinafter “Dunn”), in view of U.S. Patent No. 6,453,471 (hereinafter “Klosterman”).
2. Claim 9 stands rejected under 35 U.S.C. § 103(a) over Dunn in view of Klosterman.
3. Claims 4 and 12 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Dunn in view of Klosterman in further view of U.S. Patent No. 6,378,130 (hereinafter “Adams”).
4. Claims 5 and 13 stand rejected under 35 U.S.C. § 103(a) over Dunn in view of Klosterman, in further view of U.S. Patent No. 6,144,402 (hereinafter “Norsworthy”).
5. Claim 6 stands rejected under 35 U.S.C. § 103(a) over Dunn in view of Klosterman, in further view of U.S. Patent No. 7,032,028 (hereinafter “Clay”).
6. Claims 7 and 14 stand rejected under 35 U.S.C. § 103(a) over Dunn in view of Klosterman, in further view of U.S. Patent No. 5,861,906 (hereinafter “Dunn2”).

REMARKS

The below is presented in response to the Examiner's Response to Argument in the Examiner's Answer. Appellants have presented below responses to any *new* statements by the Examiner. Thus, where no new discernable arguments were presented in the Examiner's Answer, Appellants have not added further responses, but relied on those presented in the Appeal Brief.

The Examiner's Response to Appellant's Argument is itemized as section 10 on pages 8-10 of the Examiner's Answer. Appellants will refer to paragraphs of section 10 in the discussion below as appropriate.

In Appellant's Appeal Brief, Appellant noted deficiencies in the Final Rejection – including a misreading of the claim language. For example, Appellant noted that while claim 1 recites “retrieving a first module of said modules” (said modules not being broadcast in response to a user request), the Final Rejection simply stated Dunn discloses “retrieving a first module at a client device.” Appellant submits that Dunn does not disclose at least the features “retrieving a first module of said modules at the client device from the single channel, in response to matching the received qualifying module number to said first module,” as recited. Further, contrary to the examiner's assertions in the Examiner's Answer, the recited features are not found in Dunn.

As previously discussed, claim 1 recites “retrieving a first module of said modules at the client device from the single channel, in response to matching the received qualifying module number to said first module.” The recited “said modules” has antecedent basis in the earlier recited feature of claim 1 wherein the claim recites:

“broadcasting a plurality of modules in a broadcast carousel from a server to a plurality of client devices on a single channel, the plurality of modules in the broadcast carousel corresponding to a plurality of programs, each of said plurality of modules in the broadcast carousel having a unique module number, wherein said plurality of modules are not broadcast responsive to a client request.”

As clearly seen from the claim language, the recited “said modules” from which the first module is retrieved using the returned qualifying module numbers are “not broadcast responsive to a client request.” Claim 1 later recites “retrieving a first module of said modules at the client device from the single_channel, in response to matching the received qualifying module number to said first module.” Dunn nowhere discloses retrieving pushed modules as recited using returned qualifying module numbers.

On page 11 of the Examiner’s Answer, the examiner disagrees with Appellant’s argument that such features are not taught by Dunn and suggests the recited feature are found at column 12, lines 22-25. However, Appellant disagrees. Appellant previously discussed this disclosure in the Appeal Brief and noted the cited disclosure clearly agrees with, and supports, Appellant’s argument. In brief, Dunn clearly discloses retrieving programs that match a search request – the programs being transmitted in response to a request from the client. In particular, the disclosure cited by the examiner is as follows (expanded for a more complete context):

“FIGS. 12-14 show a method for operating the interactive system in the VOD mode. . . . Beginning with step 216 in FIG. 12, the viewer activates the VOD application by switching the STB to the designated VOD channel. Initial data is received by the STB from the headend (step 218). Such data might include category lists, star lists, new releases lists, or other information that is useful in the startup phase. At step 220, the VOD application initiates the preview browse user interface and the initial screen display 70 (FIG. 3) is depicted.

The default set of “new releases” trailers are shown. If the viewer remains passive, the “new releases” trailers will run in a continuous loop, one after another. If the viewer wishes to select a new group of programs, the viewer can actuate the “choices” button 78 to pull up various lists of criteria (e.g., star name, title, viewer list, etc.). From the one or more lists, the viewer actively specifies a criteria to select a group of programs (step 222). The criteria is transmitted from the STB to the headend (step 224).

At the headend, a search of the SQL database is conducted to locate program records which meet the search criteria (step 226). . . At step 228, the set of program records that meet the criteria are sent back to the requesting STB in the form of data packet 120 (FIG. 8). This packet includes the program monikers and IDs, and the trailer monikers and IDs.

At step 230, the viewer actuates the "preview" icon button 142 (FIGS. 5 and 9) to request play of the first preview video trailer in the program set. This request is sent to headend, which begins transmitting the preview of the first trailer in the group in response (step 232).

Back at the STB, the previews of the requested set of programs are displayed on the TV set (step 234 in FIG. 12) and the program and trailer monikers are queued in the same order that the trailers are played (step 236 in FIG. 13). As described above, the viewer can watch the trailers as they are presented, or skip through them at the viewer's own pace." (Dunn, col. 12, lines 5-47). (emphasis added).

From this disclosure of Dunn it is quite clear that a viewer "specifies a criteria to select a group of programs (step 222). The criteria is transmitted from the STB to the headend" (step 224). The headend then finds program records meeting the criteria and the criteria are sent back to the requesting STB in the form of data packet 120 (FIG. 8 [i.e., title, length, program ID, moniker]. The viewer may then request "play of the first preview video trailer in the program set." Finally, this "request is sent to headend, which begins transmitting the preview of the first trailer in the group in response (step 232.)" Therefore, Dunn clearly does not disclose a client receiving qualifying module numbers and matching them to a non-requested module as recited. Rather, Dunn discloses receiving a list of matching records at the client, the client selecting one for viewing and sending an identification of the selected item(s) to the headend, the headend transmitting the requested items in response. Neither does Klosterman disclose such features. Accordingly, the combination of cited art does not disclose all of the features of claim 1. For at least these reasons, a prima facie case of obviousness has not been established with regard to claim 1. As claims 10, 16, 18 and 20 include features similar to those discussed above, each of these claims are patentably distinguishable from the cited art for at least reasons similar to those discussed above.

CONCLUSION

For the foregoing reasons, it is submitted that the remaining rejections are erroneous, and reversal of the rejections is respectfully requested.

The Commissioner is authorized to charge any fees that may be due to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5266-08801/RDR.

Respectfully submitted,

/Rory D. Rankin/

Rory D. Rankin

Reg. No. 47,884

Attorney for Appellants

Meyertons, Hood, Kivlin,
Kowert & Goetzel, P.C.
P.O. Box 398
Austin, TX 78767-0398
(512) 853-8800

Date: April 17, 2009